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Legislative Document

No. 377

H.P. 286

House of Representatives, January 24, 2019

An Act To Protect Small Redemption Centers

(EMERGENCY)

Reference to the Committee on Environment and Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "R. B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative DEVIN of Newcastle.
Cosponsored by Senator CHIPMAN of Cumberland.

1 **Emergency preamble. Whereas,** acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** because the reimbursement amount for beverage container handling costs
4 has not increased in years, some redemption centers in the State have been forced to
5 close; and

6 **Whereas,** this legislation increases the reimbursement amount beginning June 1,
7 2019; and

8 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
9 the meaning of the Constitution of Maine and require the following legislation as
10 immediately necessary for the preservation of the public peace, health and safety; now,
11 therefore,

12 **Be it enacted by the People of the State of Maine as follows:**

13 **Sec. 1. 38 MRSA §3106, sub-§7,** as enacted by PL 2015, c. 166, §14, is amended
14 to read:

15 **7. Reimbursement of handling costs.** Reimbursement of handling costs is
16 governed by this subsection.

17 A. In addition to the payment of the refund value, the initiator of the deposit under
18 section 3103, subsections 1, 2 and 4 shall reimburse the dealer or local redemption
19 center for the cost of handling beverage containers subject to section 3103, in an
20 amount that equals at least 3¢ per returned container for containers picked up by the
21 initiator before March 1, 2004, at least 3 1/2¢ for containers picked up on or after
22 March 1, 2004 and before March 1, 2010 ~~and~~, at least 4¢ for containers picked up on
23 or after March 1, 2010 and before June 1, 2019 and at least 5¢ for containers picked
24 up on or after June 1, 2019. The initiator of the deposit may reimburse the dealer or
25 local redemption center directly or indirectly through a party with which it has
26 entered into a commingling agreement.

27 B. In addition to the payment of the refund value, the initiator of the deposit under
28 section 3103, subsection 3 shall reimburse the dealer or local redemption center for
29 the cost of handling beverage containers subject to section 3103 in an amount that
30 equals at least 3¢ per returned container for containers picked up by the initiator
31 before March 1, 2004, at least 3 1/2¢ for containers picked up on or after March 1,
32 2004 and before March 1, 2010 ~~and~~, at least 4¢ for containers picked up on or after
33 March 1, 2010 and before June 1, 2019 and at least 5¢ for containers picked up on or
34 after June 1, 2019. The initiator of the deposit may reimburse the dealer or local
35 redemption center directly or indirectly through a contracted agent or through a party
36 with which it has entered into a commingling agreement.

37 C. The reimbursement that the initiator of the deposit is obligated to pay the dealer or
38 redemption center pursuant to paragraph A or B must be reduced by 1/2¢ for any
39 returned container that is subject to a qualified commingling agreement that allows
40 the dealer or redemption center to commingle beverage containers of like product

1 group, material and size. A commingling agreement is qualified for purposes of this
2 paragraph if the department determines that 50% or more of the beverage containers
3 of like product group, material and size for which the deposits are being initiated in
4 the State are covered by the commingling agreement or that the initiators of deposit
5 covered by the commingling agreement are initiators of deposit for wine containers
6 who each sell no more than 100,000 gallons of wine or 500,000 beverage containers
7 that contain wine in a calendar year. Once the initiator of deposit has established a
8 qualified commingling agreement for containers of a like product group, material and
9 size, the department shall allow additional brands to be included from a different
10 product group if they are of like material. The State, through the Department of
11 Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery
12 Operations, shall make every reasonable effort to enter into a qualified commingling
13 agreement under this paragraph with every other initiator of deposit for beverage
14 containers that are of like product group, size and material as the beverage containers
15 for which the State is the initiator of deposit.

16 ~~D. Paragraphs A, B and C do not apply to a brewer who annually produces no more~~
17 ~~than 50,000 gallons of its product or a bottler of water who annually sells no more~~
18 ~~than 250,000 containers each containing no more than one gallon of its product. In~~
19 ~~addition to the payment of the refund value, an initiator of deposit under section~~
20 ~~3103, subsections 1 to 4 who is also a brewer who annually produces no more than~~
21 ~~50,000 gallons of its product or a bottler of water who annually sells no more than~~
22 ~~250,000 containers each containing no more than one gallon of its product shall~~
23 ~~reimburse the dealer or local redemption center for the cost of handling beverage~~
24 ~~containers subject to section 3103 in an amount that equals at least 3¢ per returned~~
25 ~~container.~~

26 **Sec. 2. 38 MRSA §3119** is enacted to read:

27 **§3119. Beverage container handling fee review panel**

28 **1. Convene biennially.** Beginning in September 2021, and every 2 years thereafter,
29 the commissioner shall convene a panel, referred to in this section as "the panel," to
30 review the adequacy of the reimbursement established in section 3106, subsection 7 for
31 beverage container handling costs.

32 **2. Membership; term.** The commissioner shall appoint 7 members to the panel to
33 serve for a 4-month term. The panel members must include:

34 **A. Two members who represent initiators of deposit;**

35 **B. Two members who represent local redemption centers;**

36 **C. One representative of a nonprofit organization that works with issues associated**
37 **with beverage container recycling;**

38 **D. One member of the public; and**

39 **E. One representative of the department.**

40 **3. Duties.** The panel shall review the amount established in section 3106, subsection
41 **7 for the reimbursement of handling costs and shall assess the adequacy of that amount to**

1 cover the costs of processing beverage containers by local redemption centers, including
2 but not limited to costs of labor, property, insurance, utilities, shipping and transport.
3 Based on its review, the panel shall develop recommendations regarding the
4 reimbursement of handling costs.

5 **4. Meetings; reports.** The panel shall meet as necessary and at the conclusion of its
6 term shall report its findings and recommendations to the commissioner. The
7 commissioner shall include the panel's findings and recommendations in the next report
8 submitted pursuant to section 1772 to the joint standing committee of the Legislature
9 having jurisdiction over natural resources matters.

10 **Emergency clause.** In view of the emergency cited in the preamble, this
11 legislation takes effect when approved.

12 SUMMARY

13 This bill:

14 1. Increases, beginning June 1, 2019, by one cent per returned container the handling
15 costs to be reimbursed to the dealer or local redemption center for the cost of handling
16 beverage containers;

17 2. Repeals the provision that authorizes the reduced handling fee for small brewers
18 and water bottlers; and

19 3. Requires the Commissioner of Environmental Protection, beginning in September
20 2021, and every 2 years thereafter, to convene a panel to review the adequacy of the
21 reimbursement amount for beverage container handling costs and make any necessary
22 recommendations regarding the reimbursement.